



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0388; FRL-9966-22-Region 4]

Air Plan Approval;

SC: Standards for Volatile Organic Compounds and Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the South Carolina State Implementation Plan (SIP) that revise several miscellaneous rules for control standards for process industries. Specifically, changes are made to standards for volatile organic compounds (VOCs) and oxides of nitrogen (NO_x). EPA is approving portions of SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on the following dates: October 1, 2007, June 17, 2013, and January 20, 2016. These actions are being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective [**Insert date 60 days after date of publication in the Federal Register**] without further notice, unless EPA receives adverse comment by [**Insert date 30 days after date of publication in the Federal Register**]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0388 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Akers can be reached via telephone at (404) 562-9089 or via electronic mail at akers.brad@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Taking?

On October 1, 2007, June 17, 2013, and January 20, 2016, SC DHEC submitted SIP revisions to EPA for approval to make administrative and clarifying amendments and correct typographical errors. These SIP submittals make changes to several air quality rules in the South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.). The changes EPA is approving into the SIP in this action modify portions of Regulation 61-62.5 - “Air Pollution Control Standards” at Standard No. 5 - “Volatile Organic Compounds,” and Regulation 61-62.5, Standard No. 5.2 - “Control of Oxides of Nitrogen (NO_x).”

At this time, EPA is not acting on changes in the October 1, 2007, submittal to Regulation 61-62.1, Section II - “Permit Requirements” or Regulation 61-62.5, Standard No. 4 - “Emissions from Process Industries.” EPA is also not acting on the changes included in the June 17, 2013, submittal to the following regulations: Regulation 61-62.1, Section I - “Definitions”; Regulation 61-62.1, Section II - “Permit Requirements”; Regulation 61-62.1, Section IV - “Source Tests”; Regulation 61-62.3 - “Air Pollution Episodes”; or Regulation 61-62.5, Standard No. 4 - “Emissions from Process Industries.” Finally, EPA is not acting on the changes included in the January 20, 2016, submittal to the following regulations: Regulation 61-62.1, Section II, “Permit Requirements”; Regulation 61-62.5, Standard No. 7.1 - “Nonattainment New Source Review”; or Regulation 61-62.6 - “Control of Fugitive Particulate Matter.”

II. Analysis of South Carolina’s Submittals

A. *Regulation 61-62.5, Standard No. 5 - “Volatile Organic Compounds”*

South Carolina is amending its standards for controlling VOCs at Regulation 61-62.5, Standard No. 5 - “Volatile Organic Compounds.” The June 17, 2013, submittal revises the VOC

regulation to make several administrative edits only, including formatting for consistency and correcting typographical errors in Section I, Part A and Part G and Section II, Part Q.¹ The January 20, 2016, submittal also revises the VOC regulation to make further administrative edits only, including formatting for consistency in Section II, Part A and Part B. EPA has reviewed the changes made to South Carolina's VOC regulation and is approving them into the SIP pursuant to CAA section 110.

B. Regulation 61-62.5, Standard No. 5.2 - "Control of Oxides of Nitrogen (NOx)"

South Carolina is amending its standards for controlling NOx at Regulation 61-62.5, Standard No. 5.2 - "Control of Oxides of Nitrogen (NOx)." The October 1, 2007, submittal makes the following changes to the NOx regulation at Section I - "Applicability," and Section III - "Standard Requirements for New Sources": 1) clarifies applicability at paragraph I.a. by adding the state effective date of the regulation; 2) modifies the number of hours of operation for testing and maintenance for exempted emergency generators at subparagraph I.b.2.; 3) clarifies the exemption of combustion control devices at subparagraph I.b.4.; and 4) adds clarifying language to Section III at Table 1, "NOx Control Standards."

CAA section 110(l) provides that EPA shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the CAA. Subparagraph I.B.2. extends the testing and maintenance operation threshold for exempted emergency generators from 250 hours to 500 hours per year. SC DHEC submitted supplemental information in support of its earlier SIP revision submittal in a December 20, 2016,

¹ Regulation 61-62.5, Standard No. 5, Section II, Part A is approved into the SIP, last revised May 7, 2002 (67 FR 30594). However, the entry for "Part A" at 40 CFR 52.2120(c) was inadvertently removed from the table of SIP-approved regulations. In this action, EPA is adding that entry back into the table.

letter to EPA. SC DHEC notes in its letter that it considered CAA section 110(l) in making this change and asserts that the State expects no increase in actual emissions as a result of raising this exemption threshold. SC DHEC explains that the 500 hours per year threshold is commonly used to determine the potential to emit for title V and other major source applicability determinations, consistent with EPA guidance.² These sources are still restricted to use in emergency conditions. Additionally, SC DHEC points to applicable federal requirements for emergency generators at 40 CFR 63, subpart ZZZZ and 40 CFR 60 at subparts IIII and JJJJ, which restrict non-emergency use of these sources to 100 hours per year. SC DHEC also clarifies that peak shaving and other types of activities are not considered emergency activities, and so would not qualify for the exemption under paragraph II.B. Therefore, this change to subparagraph I.b.2. is not expected to result in any increase in emissions that would affect the State's ability to attain or maintain state or Federal standards or reasonable further progress.

The change at subparagraph I.b.4. clarifies the exemption for devices functioning solely as combustion control devices. The additional language specifies that these devices are not automatically excluded from the exemption if waste heat is recovered from them. This additional language is aimed at encouraging process efficiency and will not interfere with attainment or maintenance of any Federal or state standard or reasonable further progress.

EPA has reviewed the October 1, 2007, SIP submittal, and is approving the aforementioned changes to Regulation 61-62.5, Standard No. 5.2, pursuant to CAA section 110(a)(2)(A) and 110(l).

III. Incorporation by Reference

² Seitz, John S. "Calculating Potential to Emit (PTE) for Emergency Generators." Memorandum to Program Directors in EPA Regional Offices. Office of Air Quality Planning and Standards. Research Triangle Park, NC. September 6, 1995.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of South Carolina Regulation 61-62.5, Standard No. 5 - “Volatile Organic Compounds,” effective November 27, 2015, which makes ministerial changes for consistency and Regulation 61-62.5, Standard No. 5.2 - “Control of Oxides of Nitrogen (NO_x),” effective May 25, 2007, which makes ministerial changes for consistency and modifies applicability for NO_x control. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.³ EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and/or at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Final Action

EPA is approving the aforementioned changes to the South Carolina SIP, submitted on October 1, 2007, June 17, 2013, and January 20, 2016, because they are consistent with the CAA and Federal regulations. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective **[Insert date 60 days after date of publication in the**

³ 62 FR 27968 (May 22, 1997).

Federal Register] without further notice unless the Agency receives adverse comments by **[Insert date 30 days after date of publication in the Federal Register]**.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days after date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this direct final action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation

Reservation is located within the South Carolina portion of the bi-state Charlotte Area. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal

Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide,
Volatile organic compounds.

Dated: August 3, 2017.

V. Anne Heard,

Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart PP—South Carolina

2. Section 52.2120(c) is amended under “Regulation No. 62.5” by:

a. Under “*Standard No. 5*”:

- i. Revising the entry “Section I”;
- ii. Under “Section I” revising the entries “Part A” and “Part G”;
- iii. Revising the entry “Section II”;
- iv. Adding under “Section II” the entry “Part A”; and
- v. Revising under “Section II” the entries “Part B” and “Part Q”.

b. Revising the entry “*Standard No. 5.2*”.

The revisions and additions read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

Air Pollution Control Regulations for South Carolina

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
**	**	*	*	*
Regulation No. 62.5	Air Pollution Control Standards			

**	**	*	*	*
Standard No. 5	Volatile Organic Compounds			
Section I	General Provisions	4/26/2013	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
Part A	Definitions	4/26/2013	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
**	**	*	*	*
Part G	Equivalency Calculations	4/26/2013	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
Section II	Provisions for Specific Sources	11/27/2015	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
Part A	Surface Coating of Cans	11/27/2015	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
Part B	Surface Coating of Coils	11/27/2015	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
**	**	*	*	*
Part Q	Manufacture of Synthesized Pharmaceutical	4/26/2013	[Insert date of publication	[Insert citation of publication]

	Products		in <u>Federal Register</u>	
**	**	*	*	*
<i>Standard No.</i> 5.2	Control of Oxides of Nitrogen (NOx)	5/25/2007	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]
**	**	*	*	*

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[FR Doc. 2017-17242 Filed: 8/15/2017 8:45 am; Publication Date: 8/16/2017]